



1 shall be entitled to be recorded or registered and the  
2 recorder or registrar upon receipt of such a release and the  
3 payment of the recording fee therefor shall record or  
4 register the same.

5 Mortgages of real property and deeds of trust in the  
6 nature of a mortgage shall be released of record only in the  
7 manner provided herein or as provided in the Mortgage  
8 Certificate of Release Act; however, nothing contained in  
9 this Act shall in any manner affect the validity of any  
10 release of a mortgage or deed of trust made prior to January  
11 1, 1952 on the margin of the record.

12 Except in the case of a mortgage that is required to be  
13 released under the Mortgage Certificate of Release Act, every  
14 mortgagee of real property, his assignee of record, or other  
15 legal representative, having received full satisfaction and  
16 payment of all such sum or sums of money as are really due to  
17 him from the mortgagor, and every trustee, or his successor  
18 in trust, in a deed of trust in the nature of a mortgage, the  
19 notes, bonds or other indebtedness secured thereby having  
20 been fully paid after September 7, 1973, shall make, execute  
21 and deliver to the mortgagor or grantor in a deed of trust in  
22 the nature of a mortgage, his heirs, legal representatives or  
23 assigns, an instrument in writing releasing such mortgage or  
24 deed of trust in the nature of a mortgage or shall deliver  
25 that release to the recorder or registrar for recording or  
26 registering. If the release is delivered to the mortgagor or  
27 grantor, it must have imprinted on its face in bold letters  
28 at least 1/4 inch in height the following: "FOR THE  
29 PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE  
30 RECORDER OR THE REGISTRAR OF TITLES IN WHOSE OFFICE THE  
31 MORTGAGE OR DEED OF TRUST WAS FILED". The recorder, or  
32 registrar, upon receipt of such a release and the payment of  
33 the recording or registration fee, shall record or register  
34 the release. A certificate of release issued and recorded by

1 a title insurance company or its duly appointed agent  
2 pursuant to the Mortgage Certificate of Release Act shall  
3 satisfy the requirements of this Section 2.

4 (Source: P.A. 92-765, eff. 8-6-02.)

5 Section 10. The Mortgage Certificate of Release Act is  
6 amended by changing Sections 5, 10, 15, 20, 35, 40, and 50  
7 and by adding Section 10.1 and 70 as follows:

8 (765 ILCS 935/5)

9 (Section scheduled to be repealed on January 1, 2004)

10 Sec. 5. Definitions. As used in this Act:

11 "Hold-harmless agreement" means a letter whereby a title  
12 insurance company, as defined in the Title Insurance Act,  
13 agrees to indemnify another title insurance company preparing  
14 to insure a present transaction that the indemnifying title  
15 insurance company has previously insured over without taking  
16 an exception to its title insurance policy for matters  
17 remaining of record, such as a previously paid but unreleased  
18 mortgage. A model form of a hold-harmless agreement is set  
19 forth in Section 70 of this Act.

20 "Mortgage" means a mortgage or mortgage lien on an  
21 interest in one-to-four family residential real property in  
22 this State given to secure a loan in the original principal  
23 amount of less than \$500,000. Trust deeds are not included.

24 "Mortgagee" means either: (i) the grantee of a mortgage;  
25 or (ii) if a mortgage has been assigned of record, the last  
26 person to whom the mortgage has been assigned of record.

27 "Mortgage servicer" means the last person to whom a  
28 mortgagor or the mortgagor's successor in interest has been  
29 instructed by a mortgagee to send payments on a loan secured  
30 by a mortgage. A person transmitting a payoff statement is  
31 the mortgage servicer for the mortgage described in the  
32 payoff statement.

1 "Mortgagor" means the grantor of a mortgage.

2 "Notice-of-intention-to-file-certificate-of-release"  
3 means-a-statement-from-a-title-insurance-company-or-title  
4 insurance-agent-to-the-person-to-whom-payment-of-the-loan  
5 secured-by-the-mortgage-was-made-in-accordance-with-the  
6 payoff-statement-of-the-intention-to-record-a-certificate-of  
7 release.

8 "Payoff statement" means a statement for the amount of  
9 the (i) unpaid balance of a loan secured by a mortgage,  
10 including principal, interest, and any other charges due  
11 under or secured by the mortgage; and (ii) interest on a per  
12 day basis for the unpaid balance.

13 "Record" means to deliver the certificate of release for  
14 recording with the county recorder.

15 "Title insurance agent" has the same meaning ascribed to  
16 it as in Section 3 of the Title Insurance Act.

17 "Title insurance company" has the same meaning ascribed  
18 to it as in Section 3 of the Title Insurance Act.

19 (Source: P.A. 92-765, eff. 8-6-02.)

20 (765 ILCS 935/10)

21 (Section scheduled to be repealed on January 1, 2004)

22 Sec. 10. Mortgage presently being paid off. Receipt of  
23 payment pursuant to the lender's written payoff statement  
24 shall constitute authority to record a certificate of  
25 release. ~~Content-and-delivery-of-notice-of-intention-to-file~~  
26 ~~certificate-of-release. (a)-The-Notice-of-intention-to-file-a~~  
27 ~~certificate-of-release-shall state-that-if-the-title~~  
28 ~~insurance-company-or-title-insurance-agent-does-not-receive~~  
29 ~~from-the-mortgagee-or-mortgage-servicer-or-its-successor-in~~  
30 ~~interest-either-a-release-or-a-written-objection-to-the~~  
31 ~~issuance-of-a-certificate-of-release-pursuant-to-subsection~~  
32 ~~(e)-of-this-Section,~~ A certificate of release shall may be  
33 delivered for recording to the recorder of each county in

1 which the mortgage is recorded, together with the other  
 2 documents from the new transaction, including a deed or new  
 3 mortgage, or both by the title insurance company or its duly  
 4 appointed agent. A notice of intention to file a certificate  
 5 of release should be in a form and include content that  
 6 substantially complies with Section 65 of this Act. The  
 7 notice of intention shall include a copy of the closing  
 8 statement or HUD-1 form and the payoff check or a copy of it,  
 9 or a copy of the wire transfer order.

10 (b) The notice of intention to file a certificate of  
 11 release shall be sent by certified mail, return receipt  
 12 requested, with postage prepaid, or by another service  
 13 providing receipted delivery, no sooner than the day of  
 14 closing and no later than 30 days after receipt of payment.  
 15 The notice shall be delivered to the location identified in  
 16 the payoff statement or as otherwise directed in writing by  
 17 the mortgagee or mortgage servicer or its successor in  
 18 interest. The notice may be sent with the payment, and need  
 19 not be sent separately.

20 (c) Within 90 days after receipt of the notice of  
 21 intention to file a certificate of release, the mortgagee or  
 22 mortgage servicer or its successor in interest may issue a  
 23 release or may object in writing to the issuance of a  
 24 certificate of release, and by doing so shall prevent the  
 25 title insurance company or title insurance agent from  
 26 executing and recording a certificate of release pursuant to  
 27 this Act. Any written objection submitted by the mortgagee or  
 28 mortgage servicer or its successor in interest shall state  
 29 the reason for which the release or certificate of release  
 30 should not be issued. The written objection shall be sent to  
 31 the title insurance company or title insurance agent by  
 32 certified mail, return receipt requested, with postage  
 33 prepaid, or by another service providing receipted delivery.  
 34 A title insurance company or title insurance agent shall not

1 cause-a-certificate-of-release-to-be-recorded-pursuant-to  
2 this---Section--if--the--title--insurance--company--or--title  
3 insurance--agent--receives--a--written--objection--from---the  
4 mortgagee-or-mortgage-servicer-or-its-successor-in-interest.  
5 (Source: P.A. 92-765, eff. 8-6-02.)

6 (765 ILCS 935/10.1 new)

7 Sec. 10.1. Previously paid mortgages. A title insurance  
8 company or its duly appointed title insurance agent may issue  
9 a mortgage certificate of release pursuant to this Act for a  
10 mortgage that appears in the chain of title prior to the  
11 mortgage presently being paid. The title insurance company  
12 must have proof of payment from its own prior files that it  
13 paid the mortgage or mortgages pursuant to a payoff  
14 statement. Where another title insurance company has paid off  
15 an unreleased mortgage pursuant to a payoff statement, the  
16 title insurance company or its duly appointed title insurance  
17 agent in the current transaction may rely upon the  
18 hold-harmless letter of that prior title insurance company to  
19 issue a mortgage certificate of release. This grant of  
20 authority is subject to the condition that the issuer of the  
21 mortgage certificate of release does not have notice that the  
22 lender opposes its release. A single mortgage certificate of  
23 release may include more than one mortgage, including both  
24 presently and previously paid mortgages.

25 (765 ILCS 935/15)

26 (Section scheduled to be repealed on January 1, 2004)

27 Sec. 15. Certificate of release. An officer or duly  
28 appointed agent of a title insurance company may, on behalf  
29 of a mortgagor or a person who has acquired from a mortgagor  
30 title to all or part of the property described in the  
31 mortgage, execute a certificate of release that complies with  
32 the requirements of this Act and record the certificate of

1 release with the recorder of each county in which the  
 2 mortgage is recorded, provided that payment of the loan  
 3 secured by the mortgage was made in accordance with a written  
 4 payoff statement furnished by the mortgagee or the mortgage  
 5 servicer. The title insurance company or its duly appointed  
 6 agent shall not be required to search the public record for a  
 7 possible recorded satisfaction or release. ~~7---that---a~~  
 8 ~~satisfaction--or--release--of--the--mortgage--has--not--previously~~  
 9 ~~been--recorded,--and--that--a--notice--of--intention--to--file--a~~  
 10 ~~certificate--of--release--was--sent--in--accordance--with--Section~~  
 11 ~~10.~~

12 (Source: P.A. 92-765, eff. 8-6-02.)

13 (765 ILCS 935/20)

14 (Section scheduled to be repealed on January 1, 2004)

15 Sec. 20. Contents of certificate of release. A  
 16 certificate of release executed under this Act must contain  
 17 substantially all of the following for each mortgage being  
 18 released:

19 (a) The name of the mortgagor, the name of the original  
 20 mortgagee, and, if applicable, the mortgage servicer at the  
 21 date of the mortgage, the date of recording, and the volume  
 22 and page or document number or other official recording  
 23 designation in the real property records where the mortgage  
 24 is recorded, ~~7--together-with-similar-information-for-the--last~~  
 25 ~~recorded-assignment-of-the-mortgage.~~

26 (b) A statement that the mortgage was paid in accordance  
 27 with the written payoff statement ~~received-from-the-mortgagee~~  
 28 ~~or--mortgage--servicer~~ and there is no objection from the  
 29 mortgagee or mortgage servicer or its successor in interest.  
 30 With respect to previously paid mortgages, the hold-harmless  
 31 letter from a title insurance company, as provided in Section  
 32 10.1 of this Act, shall satisfy this requirement.

33 (c) A statement that the person executing the

1 certificate of release is an officer or a duly appointed  
2 agent of a title insurance company authorized and licensed to  
3 transact the business of insuring titles to interests in real  
4 property in this State pursuant to subsections (2) and (3) of  
5 Section 3 of the Title Insurance Act.

6 (d) A statement that the certificate of release is made  
7 on behalf of the mortgagor or a person who acquired title  
8 from the mortgagor to all or a part of the property described  
9 in the mortgage.

10 (e) A statement that the mortgagee or mortgage servicer  
11 provided a written payoff statement. The hold-harmless  
12 letter from a title insurance company, as provided in Section  
13 10.1 of this Act, shall satisfy this requirement with respect  
14 to previously paid mortgages.

15 (Source: P.A. 92-765, eff. 8-6-02.)

16 (765 ILCS 935/35)

17 (Section scheduled to be repealed on January 1, 2004)

18 Sec. 35. Effect of recording certificate of release. For  
19 purposes of releasing the lien of the mortgage, a certificate  
20 of release containing the information and statements provided  
21 for in Section 20 and executed as provided in Section 25 is  
22 prima facie evidence of the facts contained therein, and upon  
23 being recorded with the recorder, shall constitute a release  
24 of the lien of the mortgage described in the certificate of  
25 release. The title insurance company or title insurance agent  
26 recording the certificate of release may use the recording  
27 fee it may have collected for the recording of a release or  
28 satisfaction of the mortgage to effect the recording of the  
29 certificate of release.

30 (Source: P.A. 92-765, eff. 8-6-02.)

31 (765 ILCS 935/40)

32 (Section scheduled to be repealed on January 1, 2004)

1           Sec. 40. Wrongful or erroneous certificate of release.  
2   Recording of a wrongful or erroneous certificate of release  
3   by a title insurance company or its title insurance agent  
4   shall not relieve the mortgagor or the mortgagor's successors  
5   or assignees from any personal liability on the loan or other  
6   obligations secured by the mortgage. In addition to any other  
7   remedy provided by law, a title insurance company executing  
8   or recording a certificate of release under this Act ~~that~~-has  
9   ~~actual--knowledge--that--the---information---and---statements~~  
10   ~~contained--therein--are--false~~ is liable to the mortgagee for  
11   actual damages sustained due to the recording of the  
12   certificate of release. The prevailing party in any action  
13   or proceeding seeking actual damages due to the recording of  
14   a certificate of release shall be entitled to the recovery of  
15   reasonable attorneys fees and costs incurred in that action  
16   or proceeding.

17   (Source: P.A. 92-765, eff. 8-6-02.)

18           (765 ILCS 935/50)

19           (Section scheduled to be repealed on January 1, 2004)

20           Sec. 50. Form of certificate of release. A certificate  
21   of release, in substantially the following form, allowing for  
22   alterations to permit the inclusion of multiple mortgages,  
23   both presently and previously paid, complies with this Act.

24                                   CERTIFICATE OF RELEASE

25   Date:.....Title Order No.:.....  
26   1. Name of mortgagor(s):.....  
27   2. Name of original mortgagee:.....  
28   3. Name of mortgage servicer (if any):.....  
29   ~~4. Name of last assignee of mortgage or record (if any):.....~~  
30   4. 5. Mortgage recording: Vol.:.....Page:.....or Document  
31   No.:.....  
32   ~~6. Last assignment recording (if any):~~  
33   ~~Vol.:.....Page:.....or Document No.:.....~~

1 5. 7. The above referenced mortgage has been paid in  
 2 accordance with the payoff statement ~~received from~~ and  
 3 there is no objection from the mortgagee or mortgage servicer  
 4 or its successor in interest to the recording of this  
 5 certificate of release.

6 6. 8. The person executing this certificate of release is an  
 7 officer or duly appointed agent of a title insurance company  
 8 authorized and licensed to transact the business of insuring  
 9 titles to interests in real property in this State pursuant  
 10 to Section 30 of this Act.

11 7. 9. This certificate of release is made on behalf of the  
 12 mortgagor or a person who acquired title from the mortgagor  
 13 to all or part of the property described in the mortgage.

14 8. 10. The mortgagee or mortgage servicer provided a payoff  
 15 statement.

16 9. 11. The property described in the mortgage is as follows:

17 Permanent Index Number:.....

18 Common Address:.....

19 (Name of title insurance company)

20 By:.....

21 (Name of officer and title or name of agent and name of  
 22 officer / representative thereof)

23 Address:.....

24 Telephone No.:.....

25 State of Illinois)

26 )

27 County of )

28 This instrument was acknowledged before me on .....(date) by  
 29 .....(name of person) as .....(officer for / agent of)  
 30 .....(title insurance company).

31 .....

32 Notary Public

33 My commission expires on.....

34 (Source: P.A. 92-765, eff. 8-6-02.)

1 (765 ILCS 935/70 new)

2 Sec. 70. Form of hold-harmless agreement. A  
3 hold-harmless agreement in substantially the following form,  
4 allowing for alterations to reflect the facts of the  
5 transaction and identity of the title insurance companies,  
6 complies with this Act.

7 Hold-harmless Agreement

8 TO: ..... (Presently insuring title insurance  
9 company)

10 Re: Policy No.: ..... (Previously insuring title insurance  
11 company)

12 Policy amount: \$.....

13 Policy/Commitment No.: ..... (Presently  
14 insuring title insurance company)

15 You show as exception number(s) ..... in your  
16 above referenced commitment for title insurance dated  
17 ....., the following exception(s):

18 Mortgage dated ....., recorded as Document No. ....  
19 made by ..... (borrow) to  
20 ..... (lender) to secure an  
21 indebtedness in the amount of \$.....

22 For and in consideration of your deleting said exception(s),  
23 we agree to indemnify you against loss that you may sustain  
24 as a result of said deletion. In no event may said indemnity  
25 exceed the face amount of our policy as noted above.

26 In the event any claim is made against you as a result of  
27 your deletion, you agree to notify us within 30 days of the

1 date the claim is made.

2 Any action you take with respect to the claim will not  
3 obligate us under this letter unless the aforesaid notice has  
4 been furnished us and we have adequate time to consider our  
5 approval or disapproval of the action.

6 .....

7 Title Insurance Company (Previously insuring)

8 (765 ILCS 935/65 rep.)

9 (765 ILCS 935/90 rep.)

10 Section 20. The Mortgage Certificate of Release Act is  
11 amended by repealing Sections 65 and 90.

12 Section 99. Effective date. This Act takes effect  
13 December 31, 2003."